



## A BILL FOR AN ORDINANCE

RELATING TO FLOOD OR HAZARD PREVENTION.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to provide for a new procedure under which the City may clear streams.

Streams are natural, altered or improved channels that have seasonal or continuous water flows as a result of either surface stormwater runoff or groundwater influx, or both. This ordinance is intended to prevent harm to the health, safety and general welfare of the public by allowing the City to undertake the clearing of streams to prevent flooding or other hazards.

SECTION 2. Chapter 41, Article 26, Revised Ordinances of Honolulu 1990 ("Maintenance of Channels, Streambeds, Streambanks and Drainageways"), is amended by adding a new section to be appropriately designated by the Revisor of Ordinances and to read as follows:

**"Sec. 41-26. Flood or hazard prevention.**

- (a) Notwithstanding any law to the contrary, if the chief engineer determines that the clearing of any stream is required due to imminent and potential flooding conditions and a notice and order as provided for in Section 41-26.12 has not been given to the owner, the chief engineer may enter private property during reasonable hours and upon notification given to the owner as provided under this section, to clear the stream to prevent flooding or other hazards.
- (b) At least ten days' written notice of the anticipated entry must be provided to the owner by the chief engineer, including any contractor or the contractor's agent with whom the chief engineer contracts under this article, for the purposes of clearing streams, including the removal of any debris and vegetation or other action, to prevent flooding or other hazards. Before work is commenced by the chief engineer or contractor, any owner may perform the necessary clearing of the stream and may remove debris and vegetation at the owner's own expense. Immediately upon commencement of the clearing work, the owner shall notify the chief engineer.
- (c) Written notice shall be sent to the owner's, person's or entity's last known address by certified mail, postage prepaid, return receipt requested. If the land owner, person or entity cannot be determined, notice shall be given pursuant to HRS Section 1-28.5.



---

**A BILL FOR AN ORDINANCE**

---

- (d) If the owner refuses entry, the chief engineer may apply to the district court of the first circuit for a warrant to enter the premises. The district court may issue a warrant directing the chief of police to assist the chief engineer in gaining entry onto the premises during regular working hours or at other reasonable times.
- (e) The costs incurred under this section for the clearing of a stream, including the removal of debris and vegetation or other action, shall be paid for from a special fund created and established pursuant to Section 9-202 of the Revised Charter.
- (f) Not less than thirty days prior to the end of each fiscal year, the chief engineer shall provide an annual report to the council of the actions taken by the department under this section during the fiscal year. The report shall include for each action the information recorded under Section 41-26.8, as may be applicable, and may include recommendations from the chief engineer to address any concerns regarding potential flooding and weather disasters."

SECTION 3. Section 41-26.6, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"Sec. 41-26.6      City authorized to clear and maintain.**

Except as otherwise provided in this article under Section 41-26. , [Upon] upon the failure, neglect, or refusal of any owner or agent so notified to complete maintenance and clearing of any stream; and to remove any debris, vegetation, silt, or other material from such stream within 30 days after notice has been given as provided for in Section 41-26.12, or within 30 days after the date of mailing of such notice or when service of notice cannot be made, provided that same was properly addressed to the last known address, of such owner or agent, the chief engineer is authorized and empowered to pay for such maintenance and clearing and removal of debris and vegetation out of city funds or to order the same to be done by city employees or by contract. The chief engineer or authorized employees of the department, including any contractor or the contractor's agent with whom the chief engineer contracts hereunder, are authorized to enter upon said property for the purposes of maintenance and clearing of such streams and the removal of any debris or vegetation described in the notice. Before work is commenced by the chief engineer or authorized employees of the department, or by a contractor, any owner may perform the necessary maintenance and clearing of the stream and the removal of debris or vegetation at the owner's own expense."



---

**A BILL FOR AN ORDINANCE**

---

SECTION 4. Section 41-26.8, Revised Ordinances of Honolulu 1990, is amended to read as follows:

**"Sec. 41-26.8 Chief engineer to keep record.**

The chief engineer shall cause to be kept in the department a permanent record containing:

- (a) A description of each parcel of property containing a stream for which a notice of violation and order to maintain, clear and remove has been given pursuant to Section 41-26.12, or a notice of entry to clear the stream for flood or hazard prevention has been given pursuant to Section 41-26. \_\_\_\_;
- (b) The name of the owner of record or agent;
- (c) The date on which such notice was mailed and posted or given to the owner or agent;
- (d) The charges incurred by the city for maintenance and clearing of the stream and removal of debris and all incidental expenses in connection therewith; and
- (e) A brief summary of the work performed. Each entry shall be made as soon as practicable after completion of such work."

SECTION 5. Chapter 6, Revised Ordinances of Honolulu 1990 ("Revolving Special Fund, Housing Mortgage Loans and Fees"), is amended by adding a new article to be appropriately designated by the Revisor of Ordinances and to read as follows:

**"Article \_\_\_\_ Flood Protection and Extreme  
Weather Damages**

**Sec. 6-\_\_\_.1 Establishment.**

There is hereby created a special fund to be known as the "flood protection and extreme weather damages fund."



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_  
BILL **22 (2019)**

---

**A BILL FOR AN ORDINANCE**

---

**Sec. 6-\_\_\_.2 Purpose.**

The purpose of the flood protection and extreme weather damages fund is to cover costs incurred by the city for the clearing of streams on private property under Section 41-26.\_\_\_, to prevent flooding or other hazards.

**Sec. 6-\_\_\_.3 Deposits.**

Moneys from the general fund or other federal, state, or private sources that have been so specified for these purposes may be deposited into the flood prevention and extreme weather damages fund.

**Sec. 6-\_\_\_.4 Expenditures.**

Expenditures from this fund shall only be used to cover costs incurred by the city in the clearing of a stream on private property, including the removal of any debris and vegetation or other action, to prevent flooding or other hazards.

**Sec. 6-\_\_\_.5 Administration.**

The director of budget and fiscal services shall administer the fund."

SECTION 6. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_  
BILL **22 (2019)**

**A BILL FOR AN ORDINANCE**

SECTION 7. This ordinance takes effect upon its approval.

INTRODUCED BY:

*David F. Johnson*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE OF INTRODUCTION:

**APR 18 2019**

\_\_\_\_\_  
Honolulu, Hawaii

\_\_\_\_\_  
Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
KIRK CALDWELL, Mayor  
City and County of Honolulu

**FILED**  
**APR 18 2021**  
PURSUANT TO RCH Sec. 1-2.4